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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/887,154	06/25/2001	Frank Emanuel	Q64820	7751

7590 12/02/2005
DAVID J. CUSHING
SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037

EXAMINER

PHAN, TRI H

ART UNIT	PAPER NUMBER
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2661

DATE MAILED: 12/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/887,154

Applicant(s)

EMANUEL ET AL.

Examiner

Tri H. Phan

Art Unit

2661

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 November 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☒ Other: See Continuation Sheet.


BRIAN NGUYEN

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's response filed on November 16, 2005, to the final rejection, has been considered, but it is not deemed to place the application in condition for allowance, because the limitations argued by applicant are not found to be persuasive. The traversal is based on the ground:

- Applicant argues that reference does not teach "a plurality of base stations" and "a base station controller". In fact, Li et al. ('US 6,654,363') discloses about the system and method for delivering QoS on IP packet based connections networks to customers over the wireless networks including mobile cellular networks and fixed wireless networks (see Abstract; col. 1, lines 48-51); where "a plurality of base stations" is inherent in the wireless networks (for example, figure 1 discloses a base station in connecting with the wireless user terminal, which forms part of the wireless communications network as disclosed in col. 4, lines 5-8); and wherein the base station controls radio resource allocation in the wireless system (see col. 4, lines 56-63) through the control plane (see figure 3), e.g. "base station controller" that manages and operates the communications from/to said base station. Applicant also argues that reference does not teach "the type of radio channel over which said base station communicates with one of said radio terminals is implicitly and univocally determined by a port number identified in each TCP or UDP data packet exchanged over said Radio Access Network and belonging to a communication with said radio terminal." In fact, Li does disclose wherein different "types of channels" are used for delivering IP packets to/from a particular user terminal with different service instances based on different QoS requirements (for example see col. 12, lines 16-19, 32-42, 53-58); wherein the service instance generated by the mapping function contains information of an IP source address, an IP destination address, a TCP source port, and a TCP destination port as disclosed in col. 7, lines 57-61; e.g. "type of radio channel over which said base station communicates with one of said radio terminals is implicitly and univocally determined by a port number identified in each TCP or UDP data packet exchanged over said Radio Access Network and belonging to a communication with said radio terminal." Therefore, the examiner concludes that Li teaches the arguable features.

- For the reason of making the finality of the office action on 8/2/2005, the amendments to the existing claims change the scope of the claim, thus requiring further consideration; for example, in claim 1, lines 4-7, "wherein said plurality of ... based protocol stack and ... and a plurality of radio terminals"; in claim 6, lines 3-5, "comprising: the base station; a plurality of radio terminals; wherein ..."; in claim 8, lines 3-5, "... comprising: the Radio Network Controller; a radio terminal; wherein ...". Thus, the examiner submits that the finality of the office action on 8/2/2005 is proper.

Continuation of 13. Other: Claims 1-10 remain rejected as set forth in the final rejection of paper no. 082005.